

DEPARTMENT OF JUSTICE

~~CIVIL RIGHTS DIVISION~~

Enforcement of Court Desegregation Orders

UNIVERSITY OF ALABAMA

Atherine Lucy v. Adams  
(Malone v. Mate; Carroll v. Mason)

Appeals Section Files

Pleadings and Orders

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

MARVIN P. CARROLL, and  
DAVE M. MC GLATHERY,

Plaintiffs

v.

PHILIP M. MASON, Director of the  
Huntsville Center of the Univer-  
sity of Alabama (Board of Trustees  
of the University of Alabama);  
HUBERT E. MATE, Dean of Admissions  
of the University of Alabama  
(Board of Trustees of the  
University of Alabama);  
ERIC RODGERS, Dean of the Graduate  
School of the University of Alabama  
(Board of Trustees of the Univer-  
sity of Alabama); and  
FRANK A. ROSE, President of the  
University of Alabama (Board of  
Trustees of the University of  
Alabama);  
and their successors in each such  
office,

Defendants

CIVIL ACTION

NUMBER ON 63-237

**C O M P L A I N T**

FILED IN CLERK'S OFFICE  
NORTHERN DISTRICT OF ALABAMA

JAN 8 - 1963

WILLIAM F. DAVIS  
CLERK, U. S. DISTRICT COURT  
BY \_\_\_\_\_ Deputy Clerk

Plaintiffs, as a first claim for relief against  
each of the defendants, allege:

FIRST CLAIM

1. This Court has jurisdiction of this action under  
the terms and provisions of Sections 1981, 1983 and 1988 of  
Title 42, and Section 1343(3) of Title 28, United States Code,  
as hereinafter more fully appears.

2. Additionally, this action arises under the  
Government Employees Training Act (Pub. L. 5-507, July 7,  
1958, 72 Stat. 327, Title 5, Sections 2301, et seq. U.S.C.)  
as hereinafter more fully appears. The amount in controversy  
exceeds, exclusive of interest and costs, the sum of Ten  
Thousand Dollars (\$10,000.00).

3. Additionally this action arises under the Fifth Amendment to the Constitution of the United States as hereinafter more fully appears. The amount in controversy exceeds, exclusive of interest and costs, the sum of Ten Thousand Dollars (\$10,000.00).

4. Additionally this action arises under the Fourteenth Amendment to the Constitution of the United States and more particularly the Equal Protection and Due Process Clauses thereof, as hereinafter more fully appears. The amount in controversy exceeds, exclusive of interest and costs, the sum of Ten Thousand Dollars (\$10,000.00).

5. The plaintiff, Marvin P. Carroll (hereinafter referred to as "Carroll"), is a Negro citizen of the United States and of the State of Alabama, residing in Huntsville, Alabama. He is employed by the United States in the Correlation Branch of the Electromagnetics Laboratory of the United States Army Missile Command in the Redstone Arsenal at Huntsville, his duties relating to the analysis and synthesis of passive missile homing systems.

6. The plaintiff, Dave M. McGlathery (hereinafter referred to as "McGlathery"), is a Negro citizen of the United States and of the State of Alabama. He is employed by the United States in the Nuclear and Ion Physics Branch of the Research Projects Division of the George C. Marshall Space Flight Center of the National Aeronautics and Space Administration in the Redstone Arsenal at Huntsville, his duties lying in the field of applied mathematics.

7. Defendant Philip M. Mason, resides in the City of Huntsville, Alabama and is Director of the Huntsville Center of the Board of Trustees of the University of Alabama (hereinafter

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after referred to as the "Huntsville Center"), it being one of six (6) off campus centers operated by the Board of Trustees of the University of Alabama (hereinafter referred to as the "University") to bring to the people of the State as many as possible of the services and facilities of the University. In his capacity as Director, he is the principal administrative officer of the University at the Huntsville Center.

8. Hubert E. Mate is Dean of Admissions of the University and is a resident of the City of Tuscaloosa, Alabama. In his capacity as Dean of Admissions, he is charged with the duty of receiving and processing applications of prospective students for admission into the University, such admission being pre-requisite to attending classes at the Huntsville Center and he further has the duty of granting or denying prospective students such admission.

9. Defendant Eric Rodgers is the Dean of the Graduate School of the University and is a resident of the City of Tuscaloosa, Alabama. In his capacity as Dean of the Graduate School, he is charged with the duty of receiving and processing applications of prospective students for admission into the Graduate School of the University and he further has the duty of granting or denying prospective students such admission.

10. Defendant Frank A. Rose is President of the University and is a resident of the City of Tuscaloosa, Alabama. In his capacity as President, he is the chief executive and administrative officer of the University.

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11. The Huntsville Center has full time administrative officers and faculty living in the City of Huntsville (main campus faculty and staff being available to it as advisors, consultants, lecturers and teachers), both general being undergraduate study and graduate study/offered thereat.

12. On December 5, 1961, the people of Alabama ratified Amendment CIVII of the Alabama Constitution of 1901, thereby authorizing the issuance of Three Million Dollars (\$3,000,000.00) General Obligation Bonds for the acquisition of lands and the construction and equipment of a University of Alabama Research Institute at Huntsville (hereinafter referred to as the "Research Institute") as a part of the Huntsville Center and, additionally, as a constructive adjunct for America's space flight program.

13. The University has applied for and received from the National Aeronautics and Space Administration a research grant to the Research Institute the amount thereof being Six Hundred Thousand Dollars (\$600,000.00).

14. There is presently pending with the National Aeronautics and Space Administration an application by the University for an additional grant to the Research Institute in the amount of One Million Eight Hundred Thousand Dollars (\$1,800,000.00).

15. The United States maintains, at Huntsville, Madison County, Alabama, the Redstone Arsenal as a part of its national defense establishment.

16. Within Redstone Arsenal are located the United States Army Missile Command, the United States Army Missile Support Command, the United States Army Ordnance Guided Missile School, the George C. Marshall Space Flight Center of the National Aeronautics and Space Administration, and several private contractor firms conducting rocket and missile research. The United States Army Missile Command has the national mission for Army rocket and guided missile programs and is responsible for the entire field of weapon systems management, covering

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research, design, development, production, maintenance and supply of all Army missiles and rockets. The United States Army Missile Support Command provides logistical and administrative support to all Department of the Army units at Redstone Arsenal. The United States Army Ordnance Guided Missile School conducts courses for selected officers, enlisted men and civilians in the inspection, repair, supply and maintenance of guided missiles systems and organizes and trains ordnance missile support units. The George C. Marshall Space Flight Center is the largest field installation of the National Aeronautics and Space Administration. Its mission is the design, development and testing of large rocket vehicles used in space flight.

17. There are approximately 1,375 military personnel and 8,515 civilian employees stationed and employed at the United States Army Missile Command and the United States Army Missile Support Command. There are approximately 2,340 military personnel and approximately 950 civilians stationed and employed at the United States Army Ordnance Guided Missile School. There are approximately 15 military personnel and 7,575 civilians employed at the George C. Marshall Space Flight Center of the National Aeronautics and Space Administration. There are approximately 1,850 civilian contractor employees employed at Redstone Arsenal.

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18. The University offers approximately 260 undergraduate classes and 60 graduate classes per year at the Huntsville Center. Most of the undergraduate courses there offered are in the fields of the Arts and Sciences or Engineering. Most of the graduate courses there offered are in the fields of Physics, Mathematics and Engineering.

19. Approximately 1,800 students enroll annually in the under-graduate instruction program at the Huntsville Center. Approximately 500 students participate in the Graduate Instruction program at the Huntsville Center, this program being furnished by virtue of an annual contract with the United States (Department of the Army).

20. On or about June 12, 1962, the United States (Department of the Army) entered into an agreement in writing with the University (the term of such agreement being the one year next succeeding September 1, 1962) the substance of which is as follows:

The United States (Department of the Army) determines and advises the University of its determination of the courses which it desires be taught at the Huntsville Center during the quarter next succeeding the date of such determination. The size of classes is limited to 15 persons per class the United States (Department of the Army) agreeing to pay the entire cost of such classes regardless of the number of United States personnel in attendance thereat. The United States (Department of the Army) pays to the University the minimum sum of \$28,000 per annum (the maximum sum payable therefor being \$90,000) to cover the general administrative costs of the University in providing such courses. In addition to the payment for administrative costs (and in lieu of payment of tuition therefor which would otherwise be payable by United States employees enrolled therein) the United States (Department of the Army) also pays to the University a flat fee for each class which it supports at the Huntsville Center. The employees of the George C. Marshall Space Flight Center of the National Aeronautics and Space Administration are also covered by this agreement. The agreement applies only to United States employees who engage in graduate study. Courses so taught at the Huntsville Center are also open to students who are not such personnel, such students paying their regular tuition for attendance thereat to the University, the amount of such tuition being credited by the University against the total sum owed to it by the United States (Department of the Army). Approved United States employees must pay their fees to the University (but not their tuition) they being thereafter reimbursed therefor by the United States. The University has retained under this agreement the right to apply its admission standards to all graduate students who desire to receive credit for the

taking of such courses but students who do not meet the University's requirements for graduate study may attend classes as special non-credit students when in the judgment of the University faculty representatives involved, the University Office of Admissions and the University Graduate School, the training experience and needs of such students are such as would enable them to benefit from such courses without prejudice to the program of other students enrolled.

The program established under the terms of this agreement shall hereinafter be referred to as the "Redstone Program."

21. Under the Redstone Program the personnel of the United States are certified or approved for the courses they or their supervisors desire that they take by their employer and, thereafter, their certification or approval therefor is transmitted to the University. At the conclusion of the course the University provides to the employing agency of the United States a report as to whether or not the personnel so certified or approved have attended and successfully completed the course or courses involved.

22. The George C. Marshall Space Flight Center of the National Aeronautics and Space Administration provides its personnel at Redstone Arsenal with under-graduate training at the University's Huntsville Center under and by virtue of the terms and provisions of the Government Employees Training Act, supra, the agreement or practice thereunder being, in substance, as follows:

Approval of the application of an employee desiring to attend a course or courses at the Huntsville Center is first granted by his superior officer or officers. The employee then must execute an Employee Service Agreement wherein he agrees to remain in the service of the National Aeronautics and Space Administration for a period of at least three times the length of the period of such training and, further, he agrees to repay the United States the cost to it of his training if he fails to achieve a passing grade in such course or courses. After approval of such an employee the United States issues a purchase order to the University for tuition for such employee, payment therefor being



directly made to the University by the United States. The employee receives from the United States reimbursement of any other fees he must pay to the University in order to attend classes thereat. Admission to the University is a requisite for attendance thereat under the terms and provisions of this agreement or practice.

This agreement or practice shall hereinafter be referred to as the "NASA undergraduate training program."

23. Programs under the Government Employees Training Act, supra, are designed to lead to, among other things, fair and equitable treatment with respect to training of employees of the United States.

24. Plaintiff Carroll, as an employee of the United States covered by the terms and provisions of the Redstone Program is an intended beneficiary thereof.

25. Plaintiff McGlathery, as an employee of the United States covered by the terms and provisions of the NASA undergraduate training program, is an intended beneficiary thereof.

26. Prior to March 25, 1963, plaintiff Carroll, had received all approvals and certifications and had done all things necessary for obtaining status and assistance under the Redstone Program and had, in fact, obtained such status and the right to such assistance.

27. Prior to March 25, 1963, plaintiff McGlathery, had received all approvals and certifications and had done all things necessary for obtaining status and assistance under the NASA undergraduate training program and had, in fact, attained such status and the right to such assistance.

28. The plaintiff Carroll is a graduate of Howard University, Washington, D.C., where he received a Bachelor of Science degree in Electrical Engineering.

29. The plaintiff McGlathery, is a magna cum laude graduate of Alabama A & M College, Huntsville, Alabama, where he received a Bachelor of Science degree in mathematics.

30. There are, according to the 1960 Federal Decennial Census, 2,283,609 white people and 980,271 Negro people in the State of Alabama.

31. The State of Alabama maintains a state-wide system of free public elementary and high schools and a state-wide system of public higher educational institutions of which the University and its Huntsville Center are a part.

32. There are presently enrolled in racially segregated public higher educational institutions in excess of two thousand (2,000) Negro students.

33. No public educational institution in the entire State of Alabama presently admits nor has admitted for at least the last sixty (60) years both Negroes and whites as students with the exception of one such student, the circumstances of the admission of whom hereinafter more fully appears.

34. On August 25, 1955, this Court, in the case of Autherine J. Lucy, et al v. William F. Adams, et al, Civil Action No. 652 [134 F.Supp. 235/aff'd. 228 F.2d 619 (5th Cir. 1955), cert den. 351 U.S. 931 (1955)] entered its judgment determining that the University, at that time and for some years preceding, had a tacit policy to exclude prospective Negro students from admission to the University on account of their race or color. This judgment was rendered in a class action brought by certain Negro plaintiffs on behalf of all other Negroes similarly situated with respect to the subject matter of the suit. The plaintiffs herein are members of the class of plaintiffs on whose behalf the Lucy case was filed,

and that part of the judgment in that action determining that the University had policy of discrimination against Negro applicants for admission is res judicata as between the parties to the present action.

35. Since the rendition of this Court's judgment in the case of Autherine J. Lucy, et al v. William F. Adams, et al, supra, as described in the next preceding paragraph, the defendants named herein have continued and persisted in the practice and policy of excluding qualified Negro applicants for admission to enrollment in the University solely upon the basis of their race and color.

36. Except for the enrollment and attendance, for a period of three (3) days, of Autherine J. Lucy pursuant to the terms of the order of this Court in the case of Autherine J. Lucy, et al v. William F. Adams, et al, supra, no Negroes have ever enrolled in or attended classes at the University or any of its centers.

37. Application forms provided applicants for admission to the University (including the plaintiffs herein) bear on their face a blank space in which the race of applicants must be designated.

38. Plaintiff Carroll, on or about February 22, 1963, completed and filed with the Huntsville Center in accordance with instructions he had received therefrom, application forms for admission into the University and its Graduate School.

39. Prior to March 25, 1963, all required letters recommending plaintiff Carroll to the University and its Graduate School had been properly addressed to the Huntsville Center and deposited in the United States mail by the authors thereof, first class postage-prepaid with a return address on the exterior of the envelopes thereof.

40. Prior to March 10, 1963, the University received plaintiff Carroll's required transcripts from Howard University, Washington, D.C.

41. On or about March 20, 1963, plaintiff Carroll contacted the Huntsville Center respecting his application for admission thereto and was then advised that his Morehouse College transcript would also be required but would be accepted if submitted by Saturday, March 23, 1963.

42. On March 22, 1963, plaintiff Carroll was advised that he would not be admitted to the University or its Graduate School even if his Morehouse College transcripts arrived on March 23, 1963.

43. On March 25, 1963, plaintiff Carroll was refused admission to the Huntsville Center of the University on the ground that a letter of recommendation and a Morehouse transcript were missing from his file.

44. If such items (a letter of reference and the Morehouse College transcript) were, in fact, missing from plaintiff Carroll's file, this was the fault of the University and not of plaintiff Carroll, the letter of reference allegedly missing having been mailed to the University on or about March 1, 1963, it not thereafter being returned to the sender and the Morehouse transcripts having been transmitted to the Huntsville Center in ample time for receipt thereat in the ordinary course of the mails.

45. Plaintiff Carroll had been provided with only one form for procurement of transcript by the Huntsville Center, he utilizing this in the acquisition of the Howard University transcripts.

46. Plaintiff Carroll had on several occasions, requested from the Huntsville Center information as to the status of his application to the University and the Graduate School but was not advised of missing items either until it was too late for them to be found or for other items to be substituted therefor, or until, upon receipt, such items arrived too late.

47. The University upon rejecting plaintiff Carroll's application advised him that it would be held pending completion thereof.

48. Plaintiff Carroll was advised to fill out new forms by the Huntsville Center when he arrived there to apply for admission to the University and the Huntsville Center on April 12, 1963.

49. The University and the Graduate School now have all forms required and plaintiff Carroll has not been admitted to the University or the Graduate School.

50. The Graduate School of the University has written plaintiff Carroll advising him that he must take an examination prior to admission to the Graduate School.

51. The ground upon which plaintiff Carroll is required to take an examination is the failure of the University to have had any experience with graduates of Howard University and Morehouse College, both of which are Negro institutions.

52. The time for grading of the examination required of plaintiff Carroll is such that he will be required to wait until June 10, 1963, the date of registration for the University - summer semester for word as to his acceptance or rejection.

53. Plaintiff Carroll wrote to the University requesting provisional, conditional or other admission to the Graduate School and admission to the University more than ten (10) days

prior to bringing this suit and the University officials, cognizant of such letter, they having received it, have failed or <sup>to</sup> refused/ answer it and are failing or refusing to advise him of the present status of his application.

54. Plaintiff McGlathery applied to the University seeking admission to the Huntsville Center for the winter quarter of 1962.

55. Plaintiff McGlathery withdrew his application for Winter quarter admission to the Huntsville Center and refiled his application for Spring Quarter admission in early February, 1963.

56. Plaintiff McGlathery was refused admission to the Spring Quarter of the University on the alleged ground that he failed to take a test required of the graduates of schools with which the University has had no prior experience, the college from which plaintiff McGlathery had graduated being an all Negro institution.

57. Plaintiff McGlathery, upon discovering that he would not be admitted to the University either on a credit or non-credit basis unless he first took the required examination, offered to take it but was then told that it could not be administered for several weeks.

58. Plaintiff McGlathery took the required examination more than two (2) weeks prior to filing this suit and has requested that the University advise him of his admission or admission to the University.

59. The University is and has for a period of more than ten (10) days next preceding the filing of this suit, failed or refused to correspond in answer to a letter of inquiry from the plaintiff McGlathery respecting the status of application for admission to the University.

60. The examinations required of plaintiffs are required of them solely because of their race or color and, consequently, neither the requirement nor the results of the examination may constitutionally be required or utilized by the University.

61. Plaintiffs possess all of the qualifications requisite for enrollment in the University and they have satisfied all procedural requirements regularly applied to white applicants who are graduates of colleges with which the University has had prior experience.

62. The defendants have failed and refused, and are failing and refusing, to act upon the plaintiffs' applications for enrollment in the University and in plaintiff Carroll's case the Graduate School for the Summer Session, 1963.

63. The defendants have failed to act upon the plaintiffs' pending applications for enrollment, as above described, and have failed to enroll them in the University and in plaintiff Carroll's case the Graduate School for the Summer Session, 1963, solely because of their race and color.

64. The unlawful refusal of the defendants to enroll the plaintiffs in the University and in plaintiff Carroll's case the Graduate School for the Summer Session, 1963, and to consider their applications for enrollment without regard to their race and color, causing them immediate and irreparable injury consisting of the denial of an opportunity to advance their professional training in their chosen fields and to qualify for added responsibility and increased salary in their employment. The injury to the plaintiffs by reason of the unlawful conduct of the defendants is, and will be, in excess of Ten Thousand Dollars (\$10,000.00).

65. The agreements provided for the Redstone Program and the NASA undergraduate training program, were made for the benefit of a class of individuals of which the plaintiffs are members, namely civilian scientific employees of the United States at Redstone Arsenal.

66. Plaintiffs being the intended beneficiaries of such agreements, they acquire a right and benefit therefrom to complain of the breach thereof.

67. The defendants have<sup>caused</sup> by their conduct in excluding plaintiffs from the University and in plaintiff Carroll's case the Graduate School thereof, solely because of their race or color, the breach of such agreements by the University and unless restrained and enjoined from such conduct, will continue to cause the breach of such agreements.

68. The laws of Alabama afford the plaintiffs no adequate administrative remedy for the wrongs of which they complain herein.

69. Plaintiffs have no adequate remedy at law.

As a second and further claim against each of the defendants, the plaintiffs allege:

#### SECOND CLAIM

70. Plaintiffs reallege each of the facts set forth in the first(1st) through sixty-ninth(69th) paragraphs of this complaint.

71. The inter-relationship between the University's Huntsville Center and the United States as demonstrated by the Huntsville Center's past and prospective acquisition of funds by grants from the National Aeronautics and Space Administration, its agreements establishing the Redstone Program and the



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NASA undergraduate training program, resulted in the acquisition by the Huntsville Center of a Federally supported status, the denial of the rights of plaintiffs to attend school thereat solely because of their race and color being a deprivation of their rights of liberty and property under the Fifth Amendment to the Constitution of the United States.

As a third and further claim against each of the defendants, the plaintiffs allege:

THIRD CLAIM

72. Plaintiffs allege each of the facts set forth in the first(1st) through sixty-ninth(69th) paragraphs of this complaint.

73. The conduct of the defendants, described in the preceding paragraphs, deprives the plaintiffs of their liberty and property without Due Process of Law and denies to them the Equal Protection of the Laws as guaranteed by the Fourteenth Amendment to the Constitution.

74. The defendants will, unless restrained by order of this Court, continue to refuse to enroll the plaintiffs in the University solely because of their race and color.

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WHEREFORE, plaintiffs pray that this Court, after notice and hearing, enter a preliminary injunction enjoining and restraining the defendants, and each of their successors in each of their offices as such, and their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with one or more of the defendants who receive actual notice of this Court's order by personal service or otherwise, from:

(a) Failing forthwith to admit the plaintiff Carroll as a student in the Huntsville Center of the University of Alabama and as a student in the Graduate School of the University of Alabama for the summer session commencing June 10, 1963 and thereafter permitting his continued attendance at such Huntsville Center without regard to his race or color.

(b) Failing forthwith to admit the plaintiff McGlathery in the Huntsville Center of the University of Alabama for the summer session commencing June 10, 1963 and thereafter permitting his continued attendance at such Huntsville Center without regard to his race or color.

(c) Requiring the taking of or considering results of any examination or examinations, the taking of which has heretofore been required of plaintiffs solely because the University has had no prior experience with Negro Colleges or Universities or the graduates thereof.

(d) Handling or processing the pending applications of plaintiffs for enrollment in the University's Huntsville Center and, in the case of Plaintiff Carroll, the Graduate School of the University for the Summer Session of 1963, in any manner or upon any basis different from that generally used or applied in connection with other applications, and

(e) Discriminating against the plaintiffs in any manner, or by any means, on account of their race or color, in connection with their applications for enrollment in the University.

(f) Interfering with the full, complete and non-racially discriminatory carrying out of the terms and

provisions of agreements between the University and the United States which such agreements provide for the education and training of the plaintiffs at the Huntsville Center.

And, plaintiffs further pray for such other and further relief as may seem just, equitable and proper.

Respectfully submitted,

Charles Morgan, Jr.  
736 Bank for Savings Building  
Birmingham 3, Alabama

Attorney for Plaintiffs

STATE OF ALABAMA)

JEFFERSON COUNTY)

Personally appeared before me, the undersigned authority in and for said county, in said state, the plaintiffs, MARVIN P. CARROLL and DAVE M. McGLATHERY, who being by me first duly sworn on oath depose and say that the facts alleged in the foregoing complaint are true and correct to the best of their information, knowledge and belief.

MARVIN P. CARROLL

DAVE M. McGLATHERY

Sworn to and subscribed  
before me this the \_\_\_\_  
day of \_\_\_\_\_,  
1963.

NOTARY PUBLIC

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

MARVIN P. CARROLL and  
DAVE M. McGLATHERY,

Plaintiffs

v.

PHILIP M. MASON, Director  
of the Huntsville Center of  
the University of Alabama  
(Board of Trustees of the  
University of Alabama);  
HUBERT E. MATE, Dean of  
Admissions of the University  
of Alabama (the Board of  
Trustees of the University  
of Alabama);  
ERIC RODGERS, Dean of the  
Graduate School of the  
University of Alabama (the  
Board of Trustees of the  
University of Alabama);  
and FRANK A. ROSE,  
President of the University  
of Alabama (the Board of  
Trustees of the University  
of Alabama); and their  
successors in each such  
office.

Defendants

CIVIL ACTION

NO. 15-127

MOTION FOR A PRELIMINARY

INJUNCTION

FILED IN CLERK'S OFFICE  
NORTHERN DISTRICT OF ALABAMA

JUN 3 - 1963  
WILLIAM C. DAVIS  
CLERK, U. S. DISTRICT COURT  
By \_\_\_\_\_  
Deputy Clerk

Upon the verified bill of complaint filed herein,  
and the affidavits of the plaintiffs, Marvin P. Carroll  
and Dave M. McGlathery, which are annexed hereto, the  
plaintiffs do hereby move the Court to issue a preliminary  
injunction enjoining and restraining the defendants,  
Philip M. Mason, Director of the Huntsville Center of the  
University of Alabama (Board of Trustees of the University  
of Alabama); Hubert E. Mate, Dean of Admissions of the  
University of Alabama (the Board of Trustees of the Univer-  
sity of Alabama); Eric Rodgers, Dean of the Graduate School  
of the University of Alabama (the Board of Trustees of the  
University of Alabama); and Frank A. Rose, President of the

University of Alabama (the Board of Trustees of the University of Alabama ); and each of their successors in each of their offices as such and their officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with one or more of the defendants who receive actual notice of this Court's order by personal service or otherwise, from:

(a) Failing forthwith to admit the plaintiff Carroll as a student in the Huntsville Center of the University of Alabama and as a student in the Graduate School of the University of Alabama for the summer session commencing June 10, 1963 and thereafter permitting his continued attendance at such Huntsville Center without regard to his race or color.

(b) Failing forthwith to admit the plaintiff McGlathery in the Huntsville Center of the University of Alabama for the summer session commencing June 10, 1963 and thereafter permitting his continued attendance at such Huntsville Center without regard to his race or color.

(c) Requiring the taking of or considering results of any examination or examinations, the taking of which has heretofore been required of plaintiffs solely because the University has had no prior experience with Negro colleges or Universities or the graduates thereof.

(d) Handling or processing the pending applications of plaintiffs for enrollment in the University's Huntsville Center and, in the case of Plaintiff Carroll, the Graduate School of the University of Alabama for the summer session of 1963, in any manner or upon any basis different from that generally used or applied in connection with other applications, and

(e) Discriminating against the plaintiffs in any manner, or by any means, on account of their race or color, in connection with their applications for enrollment in the University.

(f) Interfering with the full, complete and non-racially discriminatory carrying out of the terms and provisions of agreements between the University and the United States which such agreements provide for the education and training of the plaintiffs at the Huntsville Center.

The grounds of this motion, as more fully set forth in the Complaint and in the annexed affidavits of Marvin P. Carroll and Dave M. McGlathery, are:

(1) The defendants, unless restrained and enjoined, threaten to or will continue to do the acts complained of.

(2) Unless the defendants are restrained, pending final disposition of this action, injury to the plaintiffs will be irreparable even with final judgment for them.

(3) No injury will be sustained by the defendants or by the public through the issuance of a preliminary injunction.

(4) The issuance of a preliminary injunction as prayed for herein will not cause undue inconvenience or loss to the defendants, but will prevent irreparable injury to plaintiffs.

This is the first application for preliminary relief in this cause.

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CHARLES MORGAN, JR.  
736 Bank for Savings Building  
Birmingham 3, Alabama  
ATTORNEY FOR PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA,  
NORTHEASTERN DIVISION

---

MARVIN P. CARROLL and  
DAVE M. McGLATHERY,

Plaintiffs

v.

PHILIP M. MASON, Director of  
the Huntsville Center of the  
University of Alabama (The  
Board of Trustees of the  
University of Alabama);  
HUBERT E. MATE, Dean of  
Admissions of the University  
of Alabama (The Board of  
Trustees of the University of  
Alabama);  
ERIC RODGERS, Dean of the Graduate  
School of the University of  
Alabama (The Board of Trustees  
of the University of Alabama);  
and  
FRANK A. ROSE, President of the  
University of Alabama (The  
Board of Trustees of the  
University of Alabama); and  
their successors in each such  
office.

Defendants

CIVIL ACTION

NO. \_\_\_\_\_

AFFIDAVIT TO SUPPORT  
MOTION FOR PRELIMINARY  
INJUNCTION

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I, Marvin P. Carroll, being duly sworn on oath,  
depose and say as follows:

1. I am one of the plaintiffs in the above entitled  
action.

2. I graduated from the public schools in Atlanta,  
Georgia. I attended Morehouse College in Atlanta, Georgia for one  
year and transferred to Howard University in Washington, D. C.  
where I graduated with a B.S. degree in Electrical Engineering in  
1958. There I was a member of Tau Beta Pi, National Honorary  
Engineering Society; Kappa Chi Honorary Scientific Society for  
outstanding schievement in science; Phi Mu Epsilon, Honorary  
Society for Outstanding Achievement in Mathematics, and was

selected for Who's Who in American Colleges and Universities for the year 1958. I was also a member of Scabbard and Blade, Honorary Society for R.O.T.C. and was a member of a Student Council for Howard University. While at Howard University, I served as tutor and advisor to incoming students.

3. I am employed by the United States in the Correlation Branch of the Electromagnetics Laboratory of the United States Army Missile Command in the Redstone Arsenal at Huntsville. My duties relating to the analysis and synthesis of passive missile homing systems.

I previously was employed by the National Bureau of Standards, Washington, D. C. in a special projects group of the data processing systems division, where I worked in the field of digital computer design. Prior to that, I worked at the Emerson Research Laboratory, Silver Springs, Maryland as an electronic engineer. Upon graduation from Howard University, I was selected and employed by Allis-Chalmers Manufacturing Company, Milwaukee, Wisconsin, to participate in that Company's graduate training program. I was the first Negro to be so selected in that company's history.

4. On or about February 15, 1963, I indicated to my supervisor, Mr. Jacob Zarovsky, that I was desirous of taking course work in Transients in Linear Systems. Course work in this and other subjects is essential to me in the performance of my duties. Mr. Zarovsky at this time approved me for the course, subsequent approval being obtained from proper government officials. Upon obtaining this, I was advised that the United States would <sup>the</sup> pay costs of/course plus the cost of my books. I then telephoned Huntsville Center and requested that a graduate school application be sent to me at my home address. At this time, I was informed that graduate school applications were not mailed to applicants, but would have to be picked up by me personally.



IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ALABAMA, WESTERN DIVISION

AUTHERINE J. LUCY, et al.,	)	
Plaintiffs	)	CIVIL ACTION
vs.	)	
WILLIAM F. ADAMS, et al.,	)	NO. 6 5 2
Defendants	)	
VIVIAN J. MALONE, et al.,	)	
Plaintiffs	)	CIVIL ACTION
vs.	)	
HUBERT E. MATE, DEAN OF	)	NO. 63 - 178
ADMISSIONS, UNIVERSITY OF	)	
ALABAMA,	)	
Defendant	)	

O R D E R

The above-styled causes came on for hearing at this time upon the petition of Hubert E. Mate, as Dean of Admissions of the University of Alabama, for construction of the decree of July 1, 1955, in Civil Action No. 652, and upon the following motions filed in Civil Action No. 63-178:

- (1) Defendant's motion to dismiss;
- (2) Plaintiffs' motions for (a) preliminary injunction, (b) issuance of an order to show cause, (c) consolidation, and (d) production of documents.

The Court has this day entered an order upon the request of Hubert E. Mate, in his capacity as Dean of Admissions of the University of Alabama, for construction of the present efficacy of judgment rendered in Civil Action No. 652, on July 1, 1955.

The Court is of the opinion that the plaintiffs' motion to consolidate should be granted; that all of the proceedings had in Civil Action No. 63-178 should be consolidated with the proceedings in Civil Action No. 652 to the same extent as if originally filed therein; that hereafter all papers relating to the matters involved should be

filed in Civil Action No. 652, and that all further proceedings therein be had in the latter action.

The Court is of the opinion that the complaint in Civil Action No. 63-178 should be taken and considered as a part of the motion to show cause, and that the motion to dismiss should be retained and be considered as a motion to discharge the rule.

The Court is of the further opinion that the motion to produce should be overruled, and that the motion for preliminary injunction should likewise be overruled.

It is, therefore, ORDERED, ADJUDGED and DECREED, as follows:

(1) That these actions be and the same are hereby consolidated for all purposes, and that all pleadings and other documents filed in Civil Action No. 63-178 be and the same are hereby regarded and considered as filed in Civil Action No. 652, and that all pleadings and other documents hereinafter filed be filed in Civil Action No. 652.

(2) That Civil Action No. 63-178 be and the same is hereby dismissed, but without prejudice, however, to any of the proceedings in Civil Action No. 652 as consolidated.

(3) That the motion for preliminary injunction be and the same is hereby overruled.

(4) That the motion for production and inspection be and the same is hereby overruled.

(5) That the complaint in Civil Action No. 63-178 be taken and considered as a part of the motion to show cause and that said motion be and the same is hereby continued for hearing until Tuesday, May 21, 1963, at 9:30 a. m.

(6) That the motion to dismiss be and the same is hereby considered as a motion to discharge the rule, and the same be and it is hereby continued for hearing until Tuesday, May 21, 1963, at 9:30 a. m.

Done and Ordered, this the 16 day of May, 1963.

/s/ H. H. Grooms

District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ALABAMA, WESTERN DIVISION

AUTHERINE J. LUCY, et al.,  
Plaintiffs

vs.

WILLIAM F. ADAMS, et al.,  
Defendants

CIVIL ACTION

NO. 652

MARVIN P. CARROLL and  
DAVE E. McGLATHERY,  
Plaintiffs

vs.

HUBERT E. MATE, DEAN OF ADMISSIONS,  
UNIVERSITY OF ALABAMA,  
Defendant

CIVIL ACTION

NO. 63-227

ORDER

The above-styled causes came on for hearing at this time upon the motions of Cassner T. McCorvey, Winston M. Blount, John A. Caddell, Ehney A. Camp, Jr., Brewer Dixon, Wm. H. Key, Jr., Thomas S. Lawson, Austin R. Meadows, Eris Paul, Thomas D. Russell and Ernest G. Williams, as Trustees of the University of Alabama, for leave to intervene, and to modify and suspend the judgment rendered on July 1, 1955, as construed on May 16, 1963, and upon the following motions in Civil Action No. 63-227:

(1) Plaintiffs' motions for (a) preliminary injunction, (b) issuance of an order to show cause, (c) for consolidation, and (d) to dismiss Philip M. Mason, Eric Rodgers, and Frank A. Rose as parties defendant.

The Court is of the opinion that the motion to intervene should be granted and that the motion to modify and suspend the judgment should be denied; that the plaintiffs' motion to consolidate should be granted; that plaintiffs' motion to dismiss Philip M. Mason, Eric Rodgers and Frank A. Rose as parties defendant should be granted; that all of the proceedings had in Civil Action No. 63-227 should be consolidated with the proceedings in Civil Action No. 652

to the same extent as if originally filed therein; that hereafter all papers relating to the matters involved should be filed in Civil Action No. 652, and that all further proceedings therein be had in the latter action.

The Court is of the opinion that the complaint in Civil Action No. 63-227 should be taken and considered as a part of the motion to show cause.

It is, therefore, ORDERED, ADJUDGED and DECREED, as follows:

(1) That these actions be and the same are hereby consolidated for all purposes, and that all pleadings and other documents filed in Civil Action No. 63-227 be and the same are hereby regarded and considered as filed in Civil Action No. 652, and that all pleadings and other documents hereinafter filed be filed in Civil Action No. 652.

(2) That Civil Action No. 63-227 be and the same is hereby dismissed, but without prejudice, however, to any of the proceedings in Civil Action No. 652 as consolidated.

(3) That the motion for preliminary injunction be and the same is hereby overruled.

(4) That the complaint in Civil Action No. 63-227 be taken and considered as a part of the motion to show cause.

(5) That the motion to dismiss Philip M. Mason, Eric Rodgers and Frank A. Rose as parties defendant be and the same is hereby granted, and said named defendants, and each of them, be and they are hereby dismissed as defendants.

(6) That the motion to intervene be and the same is hereby granted, and that the said above-named Trustees are allowed to intervene in this cause.

(7) That the motion to modify and suspend the judgment be and the same is hereby overruled.

(8) That all matters not herein decided be and the same are hereby continued pending further action of the Court.

Done and Ordered, this the 21 day of May, 1963.

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DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ALABAMA, WESTERN DIVISION

AUTHERINE J. LUCY, et al., Plaintiffs	)	CIVIL ACTION
vs.	)	
WILLIAM F. ADAMS, et al., Defendants	)	NO. 652
VIVIAN J. MALONE, et al., Plaintiffs	)	CIVIL ACTION
vs.	)	
HUBERT E. MATE, DEAN OF ADMISSIONS, UNIVERSITY OF ALABAMA, Defendant	)	NO. 63 - 178

ORDER

The above-styled causes came on for hearing at this time upon the petition of Hubert E. Mate, as Dean of Admissions of the University of Alabama, for construction of the decree of July 1, 1955, in Civil Action No. 652, and upon the following motions filed in Civil Action No. 63-178:

- (1) Defendant's motion to dismiss;
- (2) Plaintiffs' motions for (a) preliminary injunction, (b) issuance of an order to show cause, (c) consolidation, and (d) production of documents.

The Court has this day entered an order upon the request of Hubert E. Mate, in his capacity as Dean of Admissions of the University of Alabama, for construction of the present efficacy of judgment rendered in Civil Action No. 652, on July 1, 1955.

The Court is of the opinion that the plaintiffs' motion to consolidate should be granted; that all of the proceedings had in Civil Action No. 63-178 should be consolidated with the proceedings in Civil Action No. 652 to the same extent as if originally filed therein; that hereafter all papers relating to the matters involved should be

filed in Civil Action No. 652, and that all further proceedings therein be had in the latter action.

The Court is of the opinion that the complaint in Civil Action No. 63-178 should be taken and considered as a part of the motion to show cause, and that the motion to dismiss should be retained and be considered as a motion to discharge the rule.

The Court is of the further opinion that the motion to produce should be overruled, and that the motion for preliminary injunction should likewise be overruled.

It is, therefore, ORDERED, ADJUDGED and DECREED, as follows:

(1) That these actions be and the same are hereby consolidated for all purposes, and that all pleadings and other documents filed in Civil Action No. 63-178 be and the same are hereby regarded and considered as filed in Civil Action No. 652, and that all pleadings and other documents hereinafter filed be filed in Civil Action No. 652.

(2) That Civil Action No. 63-178 be and the same is hereby dismissed, but without prejudice, however, to any of the proceedings in Civil Action No. 652 as consolidated.

(3) That the motion for preliminary injunction be and the same is hereby overruled.

(4) That the motion for production and inspection be and the same is hereby overruled.

(5) That the complaint in Civil Action No. 63-178 be taken and considered as a part of the motion to show cause and that said motion be and the same is hereby continued for hearing until Tuesday, May 21, 1963, at 9:30 a. m.



(6) That the motion to dismiss be and the same is hereby considered as a motion to discharge the rule, and the same be and it is hereby continued for hearing until Tuesday, May 21, 1963, at 9:30 a. m.

Done and Ordered, this the 16 day of May, 1963.

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District Judge

DEPARTMENT OF JUSTICE

CRIMINAL RECORDS DIVISION

Enforcement of Court Desegregation Orders

UNIVERSITY OF ALABAMA

Autherine Lucy v. Adams  
(Malone v. Mate; Carroll v. Mason)

Files of John Doar

Investigation

Shuly  
University of Alabama

THE NEW YORK TIMES, WEDNESDAY, DECEMBER 5, 1962.

## ALABAMA BLOCKS NEGRO ADMISSIONS

State University Closes All  
Spring-Term Applications

TUSCALOOSA, Ala., Dec. 4 (UPI)—The University of Alabama has closed its books on new applicants for the spring semester, in effect barring prospective Negro students from admission to the still segregated school.

The decision apparently took Negro leaders by surprise.

A spokesman for the Southern Christian Leadership Conference in Atlanta said today that up until the time of the announcement at least two Negro students felt they had a good chance of being admitted.

"Two of them had sent in \$20 deposits for dormitory rooms," said the Rev. Andrew J. Young, the group's director for voter registration.

"They also had made arrangements for their medical records and transcripts of their grades to be forwarded to the school," he said. "As nearly as we knew, they were all set."

Dr. Frank A. Rose, president of the university, announced yesterday he had ordered processing halted on all pending applications, including those from the three Negroes. He said he was taking the step because of the "pressure on enrollments."

### 4th Admissions Closure

The action marked the fourth consecutive semester that admissions have been closed without any advance public notice. University officials disputed the conference's stand that the Negro applicants had all their forms in order. One said sup-

porting credentials were lacking.

Dr. Rose said applicants were being notified that their applications were being held for processing at a subsequent semester specified by the prospective student.

The three Negroes were not identified by the university. However, one girl, Vivian Malone of Mobile, a student at Alabama Agricultural and Mechanical College, said she was among those who had applied.

She said she had not been notified that the processing had been stopped. She declined to comment on the move, although she said she felt her application was complete when submitted.

Alabama and South Carolina are the only remaining states with complete segregation in publicly supported schools.

A Negro coed, Autherine Lucy, attended classes at the University of Alabama for three days in 1956 but was expelled

for alleged statements that she made about school officials. The university is still under the 1955 Federal Court order that admitted Miss Lucy. The order prohibits the school from denying admission to any student because of race.

New York Times  
New York, New York  
Date: 12/5/62

DEPARTMENT OF JUSTICE

CIVIL RIGHTS DIVISION

Enforcement of Court Desegregation Orders

UNIVERSITY OF ALABAMA

United States v. Wallace -- 144-100-1-8

Appeals Section Files

Pleadings

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

GEORGE C. WALLACE, )

Defendant. )

CIVIL ACTION NO. \_\_\_\_\_

MOTION FOR ORDER TO SHOW CAUSE  
WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE

Plaintiff moves the Court for an order requiring the defendant to show cause, if any he has, why a preliminary injunction should not issue pending a trial and decision on the merits in this action.

This motion is based upon the averments of fact contained in the plaintiff's verified complaint and upon a memorandum of points and authorities attached hereto.

MACON L. WEAVER  
United States Attorney

ST. JOHN BARRETT, Attorney  
Department of Justice

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) CIVIL ACTION NO. \_\_\_\_\_  
 )  
GEORGE C. WALLACE, )  
 )  
Defendant. )  
\_\_\_\_\_ )

MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION FOR ORDER TO SHOW CAUSE  
WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE

I.

The governor of a state has no authority, by "interposition" or otherwise, to obstruct or prevent the execution of the lawful orders of a court of the United States.

Sterling v. Constantine, 287 U.S. 378,  
77 L.Ed. 375, 53 S.Ct. 190 ( )

Faubus v. United States, 254 F.2d 797,  
(C.A. 8, 1958), cert. den. 358 U.S. 829,  
3 L.Ed. 2d 68, 79 S.Ct. 49

Bush v. Orleans Parish School Board, 188 F.Supp. 916  
(3-judge decision, E.D. La. 1960), stay denied  
364 U.S. 500, 5 L.Ed.2d 245, 81 S. Ct. 260,  
aff'd 365 U.S. 569, 5 L.Ed. 2d 806, 81 S. Ct. 754  
(1961)

II.

The courts of the United States have statutory authority under the all-writs statute (28 U.S.C. 1651) as well as inherent power to enter such orders as may be

necessary to effectuate their lawful decrees and to prevent interference with, and obstruction to, their implementation.

United States v. Mississippi  
7 Race Relations Law Reporter 1105  
(C.A. 5, 1962), cert. den. 372 U.S. 916 (1963)

Faubus v. United States, supra

Toledo Scale Co. v. Computing Scale Co., 267 U.S. 399,  
67 L.Ed. 719, 43 S. Ct. 458 (1923)

Bullock v. United States, 265 F.2d 683, 691  
(C.A. 6, 1959)

Bush v. Orleans Parish School Board, 188 F.Supp. 916  
(E.D. La.), aff'd 365 U.S. 569, 5 L.Ed. 2d 806,  
81 S.Ct. 754, and sub nom. New Orleans v. Bush,  
366 U.S. 12, 6 L.Ed.2d 239, 81 S.Ct. 1091

Bush v. Orleans Parish School Board, 190 F.Supp. 861  
(E.D.La.), aff'd 365 U.S. 569, 5 L.Ed.2d 806,  
81 S.Ct. 754

Bush v. Orleans Parish School Board, 191 F.Supp. 871  
(E.D.La.) aff'd sub. nom. Legislature of Louisiana  
v. United States, 367 U.S. 908, 6 L.Ed.2d 1249,  
7 L.Ed.2d 71, 81 S.Ct. 1917, 82 S.Ct. 26

Bush v. Orleans Parish School Board, 194 F.Supp. 182  
(E.D. La.), aff'd 368 U.S. 11, 7 L.Ed.2d 75 and  
138, 82 S.Ct. 32 and 1245.

### III.

The United States is a proper party to seek an injunction against unlawful interference with or obstruction to the carrying out of the orders of its courts.

United States v. Louisiana, 188 F.Supp. 916 (E.D.La.,  
1960, stay denied 364 U.S. 500 (1960),  
aff'd sub nom. Orleans Parish School Board  
v. Bush, 365 U.S. 569 (1961), 5 L.Ed.2d 806,  
81 S.Ct. 754.

Bush v. Orleans Parish School Board, 190 F.Supp. 861  
(E.D.La. 1960), aff'd 365 U.S. 569, 5 L.Ed.2d 806,  
81 S.Ct. 754

Bush v. Orleans Parish School Board, 191 F.Supp. 871  
(E.D.La. 1961), aff'd sub. nom. Legislature of  
Louisiana v. United States, 367 U.S. 908 (1961),  
6 L.Ed.2d 1250, 81 S.Ct. 1925.

United States v. Mississippi, supra

Faubus v. United States, supra

Respectfully submitted,

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MACON L. WEAVER  
United States Attorney

---

ST. JOHN BARRETT  
Attorney  
Department of Justice



Montgomery

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
GEORGE C. WALLACE,  
Defendant.

CIVIL ACTION  
NO. \_\_\_\_\_

COMPLAINT

The United States, as a claim against the defendant, alleges:

1. This action is brought by the United States in its sovereign capacity to safeguard the due administration of justice in its courts and the integrity of its judicial process.

2. This Court has jurisdiction of this action under 28 U.S.C. 1345.

3. George C. Wallace is Governor of the State of Alabama and, as such, has taken an oath to support the Constitution of the United States. He resides in Montgomery, Alabama.

4. The University of Alabama is an institution of higher learning, maintained and operated by the State of Alabama. It is administered by a Board of Trustees

consisting of twelve members. The Governor of the State of Alabama is an ex officio member of the Board of Trustees.

5. On July 1, 1955, this Court entered its order in the case of Autherine J. Lucy, et al. v. William F. Adams, No. 652, permanently enjoining the Dean of Admissions of the University of Alabama from denying Negroes the right to enroll in the University and pursue courses of study thereat solely on account of their race or color.

6. On May 16, 1963, this Court, upon application of Vivian J. Malone, a Negro citizen of Alabama, and certain others, entered an order determining that the Court's order of July 1, 1955, in the case of Autherine J. Lucy, et al. v. William F. Adams, No. 652, was still in full force and effect, and that Negroes with applications pending for enrollment in the University of Alabama could apply to this Court for enforcement of the order of July 1, 1955.

7. On May 21, 1963, this Court heard a motion filed on behalf of eleven of the members of the Board of Trustees of the University of Alabama for leave to intervene in the case of Autherine J. Lucy, et al. v. William F. Adams, and to modify and suspend this Court's order of July 1, 1955 as construed on May 16, 1963. In their motion the members of the Board represented that Vivian J. Malone and David M. McGlathery, each a Negro citizen of the State of Alabama and an applicant for enrollment in the University, were qualified to be enrolled under the

terms of this Court's order of July 1, 1955, but requested that implementation of that order be delayed with respect to their admission to the University because of an alleged state of unrest in racial relations in the State of Alabama. The Court, on May 21, 1963, allowed said members of the Board of Trustees to intervene and denied the motion to modify and suspend the order of July 1, 1955.

8. Vivian J. Malone and David M. McGlathery are entitled to be enrolled in and to attend the University of Alabama pursuant to and under the terms of this Court's orders of July 1, 1955, May 16, 1963, and May 21, 1963, in the case of Autherine J. Lucy, et al. v. William F. Adams.

9. On May 21, 1963, following the entry of the order described in paragraph 7, George C. Wallace publicly stated that he would bar the entrance of any Negro who attempts to enroll in the University of Alabama pursuant to the order of this Court. The full text of the written statement of George C. Wallace, as released to the press on May 21, 1963, is attached as an appendix to this complaint.

10. Unless restrained by order of this Court, George C. Wallace will attempt to prevent the enrollment and attendance of Vivian J. Malone and David M. McGlathery and other qualified Negro applicants in the University of Alabama, and will thereby interfere with and obstruct the carrying out of the lawful orders of this Court.

11. Unless an injunction is issued, the plaintiff will suffer immediate and irreparable injury, consisting of the impairment of the integrity of its judicial process, the obstruction of the due administration of justice, and the deprivation of rights under the Constitution and laws of the United States.

WHEREFORE, plaintiff respectfully prays that this Court issue a preliminary injunction during the pendency of this action, and a permanent injunction after trial, enjoining the defendant, his agents, employees, subordinates and successors, together with all persons in active concert or participation with them or any of them, from:

- (a) preventing or seeking to prevent, or interfering in any way with, the enrollment and attendance of Vivian J. Malone and David M. McGlathery at the University of Alabama;
- (b) obstructing or interfering with, by any means or in any manner, the implementation of this Court's orders of July 1, 1955, May 16, 1963, and May 21, 1963, in the case of Autherine J. Lucy, et al. v. William F. Adams, No. 652, and
- (c) otherwise obstructing or interfering with the due administration of justice by the courts of the United States within the State of Alabama.

Plaintiff further prays that the Court grant such additional relief as the interests of justice may require.

---

ROBERT F. KENNEDY  
Attorney General

BURKE MARSHALL,  
Assistant Attorney General

MACON L. WEAVER  
United States Attorney

ST. JOHN BARRETT, Attorney  
Department of Justice

VERIFICATION

St. John Barrett, being first duly sworn, says:

I am an attorney with the Department of Justice and am one of the counsel for the plaintiff in the above action. I am familiar with the contents of the foregoing complaint and all of the allegations of fact which it contains are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Subscribed and sworn to before  
me this        of May, 1963.

\_\_\_\_\_

## APPENDIX

Federal Judge H. H. Grooms has today issued a ruling which orders the University of Alabama to admit certain Negroes. This is another example of unwarranted interference by some Federal courts with the internal affairs of this state and I resent and reject this new assault upon the liberty and freedom of the people of the State of Alabama and of the nation. Some Federal courts no longer concern themselves with the basic guarantees which the basic framers of the Constitution felt could best be protected by reserving powers to the people to be exercised only through their state government. They have gone to ridiculous extremes to impose an unjust, unworkable, unconstitutional social experiment on the people of this country while blindly ignoring the rights of the white citizens. We must resist these actions which, if left unchallenged, can only lead to the destruction of freedom. If we do not resist we need only to look to the public schools of Washington, D.C. to learn the fate of our public school system. I believe the American people are fast awakening to the perils of the Federal courts enforcing a social ideology instead of the Constitution of the United States.

The probability of Judge Grooms' ruling as he did today was discussed with me by the members of the Board of Trustees in my office. At that time the Board voted to admit the Negroes in the event Judge Grooms ruled in their favor and refused to stay his order pending an appeal. I voted against the admission of any Negroes under any circumstances and urged the Board to appeal any such decision. The ruling of Judge Grooms will be appealed.

The Federal court would not hesitate to jail, imprison and inflict severe punishment against any lesser official than the governor of this state and this, of course, includes trustees and other officials of the University of Alabama. The obligations to protect the tradition and sovereignty of this state is my obligation and will be fulfilled by me.

As Governor I am the highest constitutional officer of the State of Alabama. I embody the sovereignty of this state and I will be present to bar the entrance of any Negro who attempts to enroll in the University of Alabama.

There are legal questions which have not been raised and I intend to raise them. The constitutional standing that I possess as Governor and as the direct representative of the people of this state will be tested. I intend to continue to fight to preserve the integrity of the Constitution of the United States. I intend to keep my covenant with the people of the State of Alabama.